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10/675,287	09/30/2003	Jeyhan Karaoguz	14794US02	5434

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EXAMINER
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RYAN, PATRICK A

ART UNIT	PAPER NUMBER
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2427

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10/17/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/675,287	<b>Applicant(s)</b> KARAOGUZ ET AL.	
	<b>Examiner</b> PATRICK A. RYAN	<b>Art Unit</b> 2427	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 September 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This Office Action is made in response to RCE-Reply to Final Office Action of June 2, 2008 ("Reply"), filed September 2, 2008. Applicant has amended Claims 1, 11, and 21; no claims have been added; and no claims have been canceled. As amended Claims 1 through 31 are presented for examination.

2. In Final Office Action of June 2, 2008 ("Office Action"):

Claims 1-5, 8-15, 18-25, and 28-31 were rejected under 35 U.S.C. 102(e) as being anticipated by Novak (US PG PUB 2002/0104099 A1).

Claims 6, 7, 16, 17, 26, and 27 were rejected under 35 U.S.C. 103(a) as being unpatentable over Novak (US Patent Application Publication 2002/0104099) in view of Martin et al (US Patent 7,174,512).

### ***Miscellaneous***

3. Applicant is advised that the Examiner's Art Unit number has changed from 2623 to 2427. All further correspondence should be directed to Art Unit 2427.

### ***Continued Examination Under 37 CFR 1.114***

4. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 2, 2008 has been entered.

### ***Response to Arguments***

5. Applicant's arguments filed September 2, 2008 have been fully considered but they are not persuasive.

6. Applicant presents that Novak does not teach "organizing, at said first location, said located media and at least a portion of broadcast media into channels" because "the personal media uploaded by uploader 122 to server 124 is organized into 'synthetic channels' at the location of server 124" and "Neither the location of server 124 nor the location of the local studio 106 (or even the location of the uploader 122) is used for the purpose of organizing the synthetic channel to include the transferred personal media and broadcast programming" (as stated in Reply Page 15; with further reference to Novak Fig. 1). In addition, Applicant presents that "the entire Fig. 4 of Novak relates to a method of providing media to the server 124 not the location of uploader 122, for the purpose of organizing the 'synthetic channel'" (as stated in Reply Pages 10, 11, and 15). The Examiner respectfully disagrees.

7. The Examiner first reasserts Novak's teaches of a "first location" in the form of Upload Source 122. As stated in the Advisory Action of August 22, 2008 ("Advisory Action"):

Novak clearly teaches that transferred "personal media" is organized at the upload source 122 into a "synthetic channel" (Novak Fig. 4 Step 404, "create a schedule of programming" as described in Paragraph [0057]; with further reference to Interface 702 of Fig. 7, as described in Paragraph [0063]).

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The Examiner additionally submits that Upload Source 122 is equated to Applicant's "first location" and STB 152 is equated to Applicant's "second location" in order to establish points of reference in addressing the limitation "transparently transferring from said first location... to at least a second location" using Novak method of Figs. 4 and 11. The Examiner presents that Novak defines Upload Source 122 to function as an "individual" or an "organization" (Paragraph [0039]), a "consumer" (Paragraph [0056]), and "can comprise or can use a set top box, a PC, or other access device..." (Paragraph [0056]). It is the Examiner's position that Upload Source 122 is structurally and functionally equivalent to the STB 152 based on Novak's disclosure Paragraphs [0039,0056]. Therefore, Upload Source 122, which can comprise a set top box, also views and interacts with EPG 153 containing a plurality of channels shown as Television Channels 902 and synthetic channel Listing 908. In order to further clarify this position, this Office Action addresses Applicant's "first location" as "uploading individual at Upload Source 122" and Applicant's "second geographic location" as "client terminal of end user at STB 152", which is in accordance with Novak's Figs. 4 and 11, as described in Paragraphs [0056-0060 and 0078-0086].

In addition, regarding Applicant's interpretation of Fig. 4, the Examiner presents that at Block 404 "the [upload] individual can use an application to create a schedule of programming for the synthetic channel this is to play the media objects" and that "a web-based application may be used by the individual to create the program schedule from the web site 124. It is to be appreciated that other types of tools or applications may be used in addition to or instead of a web-based application." (Novak Paragraph

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[0056 and 0057]). Novak also teaches in Paragraph [0063] that this "application" is implemented by way of User Interface 702 of Fig. 7, which "can be used with a PC or with set top box 504 to organize various media objects into one or more media programs for a synthetic channel."

The Examiner therefore presents that Novak does in fact teach the Claim 1, 11, and 21 limitation "organizing, at said first location, said located media and at least a portion of broadcast media into channels".

8. Applicant also presents that Novak does not teach "transparently transferring from said first location, at least a portion of said organized channels to at least a second location within the communication network" because "at step 406, a token or electronic file is sent to the end user to subscribe the end user's terminal (set top box 152) to the synthetic channel" (With reference to Reply Pages 11, 12, 15, and 16; with further reference to Novak Figs.1,2,4,11; paragraphs 0041, 0058, 0059, 0085, & 0086, as cited in Final Office Action Page 3). Applicant cites Novak Paragraph [0058] "discloses that the individual (who uploads the media to server or web site 124) emails the token or other electronic file to the end user" and "Obviously, the user will be aware of such emailed token" (Reply Page 16). The Examiner respectfully disagrees.

9. As the Examiner has presented in Advisory Action of August 22, 2008:

The Examiner submits that Novak's token "may trigger an application (or the token itself can be an application) that causes the EPG 153 and/or the set top box to add the synthetic channel to the program listings" (Paragraph [0058]). Novak further teaches, regarding a token, that an application, such as a Java applet, is automatically downloaded and triggers an update of EPG 153 (as described in Paragraph [0080]).

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Furthermore, the Examiner submits Page 20 Paragraph [68] of Applicant's specification as the most definitive passage demonstrating the meaning of “transparently transferring”:

An Internet-based media exchange network infrastructure 413 may provide connectivity for the personal computer 402, the media processing systems 414 and the media processing 415 located at "Brother's House." Accordingly, the Internet-based media exchange network infrastructure 413 may be adapted to facilitate exchange of media among the media processing systems 414, 415 and the personal computer 402. In this regard, the Internet-based media exchange network infrastructure 413 may facilitate the transparent transfer of media from a first location such as the "Brother's House" 409 to a second location such as the "Mom's House" 412. Mom may authorize brother to transparently transfer media to "Mom's House" 412 from "Brother's House" 409.

In view of Applicant's Specification, it is the Examiner's position that the second user (i.e. “Mom”) is aware of the first user's (i.e. the “Brother's”) intention of transferring media because "Mom may authorize brother to transparently transfer media”.

Applicant's specification demonstrates that the act of transparently transferring can require the awareness of the individual transferring the media. The Examiner presents that Applicant's use of “transparently transferring” in the language of the claims therefore does not exclude user awareness in the reception of media transferred from a first location to a second location.

10. Applicant also presents on Reply Page 14 that:

Referring to FIG. 1 of Novak, the Applicant points out that the upload source 122 can upload media to the web site or server 124. See Novak at ¶¶ 0040-0041. In addition, the uploaded media may include personal media or recorded clips of TV programs, as described in more detail in ¶ 0039 of Novak. **However, the media uploaded to server 124 does not include any television broadcast programming (the Applicant notes that recorded clips of TV programs do not constitute broadcast media as the video clips are personal recordings that are not being broadcast, i.e., mass-communicated). As seen from Novak's FIG. 1, such broadcast media is provided separately by the cable service provider 108 over the cable network 134 and it is not provided together with the personal media in one channel.**

11. The Examiner submits that Claims 1, 11, or 21 do not require "television broadcast programming" to be transfer from a first location to a second location. It is the Examiner's position that Novak's teachings of uploading personal media is sufficient to met the Claim 1 limitation “at least a portion of said organized channels to at least a

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second location". The Examiner further submits that Applicant's Specification does not provide sufficient evidence to support the transfer of "mass-communicated" broadcast media. For example, Applicant's Specification Paragraph [47] states:

Representations of the locally stored media at the second location 110 and representations of the transparently transferred media may be presented in a single constructed display such as the media guide, device guide and/or channel guide. Additionally, representations of broadcast media may also be integrated within the presented single constructed display, where it may coexist with locally stored and transparently transferred media. Accordingly, the media guide, device guide and/or channel guide at the second location 110 may contain representations of the local media, transferred media and/or broadcast media. The broadcast media may be distributed from a broadcast television station and/or from a cable provider, for example.

In view of Applicant's disclosure, it is the Examiner's position that "broadcast media" and "locally stored" media are presented in a "coexist[ing]" fashion at Applicant's "second location", where "the broadcast media may be distributed from a broadcast television station", which is in accordance with the teachings of Novak, as discussed above.

The Examiner therefore presents that Novak does in fact teach the Claim 1, 11, and 21 limitation "transparently transferring from said first location, at least a portion of said organized channels to at least a second location within the communication network".

### ***Claim Rejections - 35 USC § 102***

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.



13. Claims **1-5, 8-15, 18-25, and 28-31** are rejected under 35 U.S.C. 102(e) as being anticipated by **Novak (US PG PUB 2002/0104099 A1)**.

With respect to Claim **1**, the claimed *“locating media stored locally at least at a first location in the communication network; organizing, at said first location, said located media and at least a portion of broadcast media into channels”* is met by the Novak reference that teaches an uploading individual at upload source 122 organizing media by way of User Interface 702 of Fig. 7 for presentation within EPG 153 of Fig. 9, which is viewable by way of a set top box device (*Figs. 1, 4, 7, 9, and 11; paragraphs 0010, 0026, 0039, 0041, 0056-0060, 0063, and 0078-0086*).

The claimed *“transparently transferring from said first location, at least a portion of said organized channels to at least a second location within the communication network”* is met by the Novak reference that teaches client terminal of end user at STB 152 receiving media files associated with the ‘synthetic’ channel when it is selected for viewing- whereby a ‘synthetic’ channel is added to an user’s EPG 153 at a 2<sup>nd</sup> location, via an emailed token or other electronic file, such as a Java applet that is automatically downloaded and triggers an update of EPG 153 (*Figs. 1, 2, 4, 9, 11; paragraphs 0041, 0058, 0059, 0080, 0085, & 0086*).

With respect to Claim **2**, the claimed *“displaying said organized channels in at least one constructed display”* is met by Novak teaching the use of a display 154 at a second location 152 for displaying a synthetic channel 804 listed on an EPG 802 (*Figs. 1 & 8; paragraphs 0026 & 0071*).

With respect to Claim **3**, the claimed “*constructed display is at least one of a media guide, device guide and a channel guide*” is met by Novak teaching the use of an EPG 802 in displaying a ‘synthetic’ channel listing (*Fig.8; paragraph 0071*).

With respect to Claim **4**, the claimed “*constructed display is formatted as a graphical user interface*” is met by Novak teaching an EPG 802 that is configured to access media displayed in a ‘synthetic’ channel listing once it has been selected (*Fig.8; paragraph 0072*).

With respect to Claim **5**, the claimed “*constructed display is displayed at least at one of said first location and said second location*” is met by Novak that teaches the use of a display 154 at a second location 152 (*Fig.1; paragraph 0038*).

With respect to Claim **8**, the claimed “*transparently transferring media corresponding to at least said second location*” is met by Novak teaching media being sent to a 2<sup>nd</sup> location 152 once a ‘synthetic’ channel is selected on the EPG 153 (*Fig.1; paragraphs 0058, 0059, 0080, & 0085*).

With respect to Claim **9**, the claimed “*updating an existing constructed display at said second location to reflect said transparently transferred at least a portion of said organized channels*” is met by Novak teaching an EPG 153 being updated with media programs on a ‘synthetic’ channel created by an uploading source 122 (*Fig.1; paragraphs 0041, 0058, 0059, 0080, & 0083*).

With respect to Claim **10**, the claimed “*authorizing said transparent transfer of said at least a portion of said organized channels to at least said second location*” is met

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by Novak teaching the use of a 'token' to subscribe a user at 2<sup>nd</sup> location 152 in order for the receipt of 'synthetic' channel listing and ultimately allowing the transfer of media to the 2<sup>nd</sup> location or by a user at a 2<sup>nd</sup> location navigating to a website where a piece of software can be downloaded and an update of EPG 153 can be triggered (*Figs. 4, 11, paragraphs 0058 & 0080*).

Claim **11** is met as previously discussed with respect to Claim **1**.

Claim **12** is met as previously discussed with respect to Claim **2**.

Claim **13** is met as previously discussed with respect to Claim **3**.

Claim **14** is met as previously discussed with respect to Claim **4**.

Claim **15** is met as previously discussed with respect to Claim **5**.

Claim **18** is met as previously discussed with respect to Claim **8**.

Claim **19** is met as previously discussed with respect to Claim **9**.

Claim **20** is met as previously discussed with respect to Claim **10**.

Claim **21** is met as previously discussed with respect to Claim **1**. In addition, Novak teaches that the upload source 122 can consist of a set top box or a PC uploading media files to a server (*Fig. 1; paragraph 0055 & 0056*).

Claim **22** is met as previously discussed with respect to Claim **2**.

Claim **23** is met as previously discussed with respect to Claim **3**.

Claim **24** is met as previously discussed with respect to Claim **4**.

Claim **25** is met as previously discussed with respect to Claim **5**.

Claim **28** is met as previously discussed with respect to Claim **8**.

Claim **29** is met as previously discussed with respect to Claim **9**.

Claim **30** is met as previously discussed with respect to Claim **10**.

With respect to Claim **31**, the claimed “at least one processor is at least one of a media processing system processor, a media management system processor, a computer processor, a media exchange software processor and a media peripheral processor” is met Novak teaching an upload source 122 being a set top box or a PC (Figs.1 & 2; paragraph 0039).

### ***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims **6, 7, 16, 17, 26, and 27** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Novak (US Patent Application Publication 2002/0104099)** in view of **Martin et al (US Patent 7,174,512)**.

With respect to Claim **6**, the claimed “*presenting representations of locally stored media at said second location and representations of said transparently transferred media in a single constructed display*” is met in part by Novak teaching a system that allows an individual to upload media files through a server to an end user, allows scheduling the order in which they are presented to a 2<sup>nd</sup> user in a ‘synthetic’ channel listing included in an EPG, and transferring the media files listed in the ‘synthetic’ channel listing upon its selection by the 2<sup>nd</sup> location as discussed in Claim **5** above.

However, Novak does not teach that the locally stored media at the 2<sup>nd</sup> location is represented in addition to the ‘transparently transferred media’. Martin et al. teaches a system that displays broadcast channels and locally or remotely stored content on one common display (*Fig.5c; col.1, lines 56-59; col.14, lines 22-25 & lines 44-47*).

It would have been obvious to a person with ordinary skill in the art at the time the invention was made to incorporate the teaching of Martin et al. with those of Novak, because both Martin et al. and Novak teach displaying available media content to an end user. A person with ordinary skill in the art would have been motivated to make the modification to Novak in order to allow the additional benefit of displaying local media available for viewing by a user of the system, thereby notifying them of all the media content that is available to them.

With respect to Claim 7, the claimed “*integrating representations of broadcast media in said presented single constructed display*” is met by Novak teaching a EPG 153 that contains both a ‘synthetic’ channel listing 908 created by a 1<sup>st</sup> user 122 and broadcast channel listings 902, containing local and national television channels (*Fig. 9; paragraph 0074*).

Claim 16 is met as previously discussed with respect to Claim 6.

Claim 17 is met as previously discussed with respect to Claim 7.

Claim 26 is met as previously discussed with respect to Claim 6. In addition, both Novak and Martin et al. teach the use of set top boxes in the displaying of available media. Specifically, Novak discloses set top box 152 (*Fig.1*) and Martin et al. discloses set top box 1140 (*Fig. 2 & 4B*).

Claim 27 is met as previously discussed with respect to Claim 7.

***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

17. Cooper et al., United States Patent (6,754,904 B1) teach a method for providing an electronic program guide as a common interface between users in different geographic locations. The electronic program guide can be used to inform a first network user of activity by other network users and communicate information between users on the network (Abstract, Fig. 6).

18. McKenna, Jr., United States Patent (6,915,528 B1) teaches method and system of linking program interface objects (PIO's), which provide a visual indicator of a represented program, between users on a television network (Abstract, Fig. 15).

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PATRICK A. RYAN whose telephone number is (571)270-5086. The examiner can normally be reached on Mon to Thur, 8:00am - 5:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Beliveau can be reached on (571) 272-7343. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P. A. R./  
Examiner, Art Unit 2427  
Saturday, October 18, 2008

/Scott Beliveau/  
Supervisory Patent Examiner, Art Unit 2427